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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,310	11/28/2001	John T. Ziegenhorn	ZIEG.001A	4415
20995	7590	01/21/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			MCLOUD, RENATA D	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/997,310	ZIEGENHORN ET AL.
	Examiner Renata McCloud	Art Unit 2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10/22/2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 27-35 is/are allowed.

6) Claim(s) 1,3-16, 18-26, 36 and 37 is/are rejected.

7) Claim(s) 2 and 17 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) Other: _____

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed 22 October 2003, the following has occurred:
 - a. Claims 1, 7, 1011, 21, 23 have been amended.
 - b. Claims 36 and 37 have been added.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 recites the limitation "wherein the apparatus is removable from the cover; wherein removal of the apparatus does not prevent use of the grill". This limitation is unclear how the apparatus would be removed from the cover being that the cover is a part of the apparatus, as defined in claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12, 18, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoeberigs (U.S. 5,371,829).

Claim 12: Hoeberigs teaches a cooking apparatus comprising a grilling surface (Fig. 3a: 4), a cover (Fig. 3a: 6) that provides hollow chamber (Fig. 3a: area between 14 and 4) having an adjustable opening (Fig. 3a: 6 is open) over the grilling surface (Fig. 3a: 4); and a motor (Fig. 3a: 19) coupled to the cover (Fig. 3a: 6) to adjust the opening between the cover (Fig. 3b: 6) and the grilling surface (Fig. 3b: 4).

Claim 18: Hoeberigs teaches the motor (Fig. 3a: 19) is detachable (The motor can be taken off).

Claim 20: Hoeberigs teaches the motor stops movement of the cover at a point within a full range of cover movement (Fig. 3a shows the cover closed, and 3b shows the lid open).

Claim 21: Hoeberigs teaches a cooking apparatus comprising a grilling surface (Fig. 3a: 4), a cover (Fig. 3a: 6) that provides hollow chamber (Fig. 3a: area between 14 and 4) having an adjustable opening (Fig. 3a: 6 is open) over the grilling surface (Fig. 3a: 4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1,9 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopponen (U.S. 6,437,291) in view of Hoeberigs (U.S. 5,371,829).

Claim 1: Hopponen teaches an apparatus comprising a grill (Fig. 1: 20) having an upper surface (e.g. Fig. 1: 25) and a lower surface (e.g. Fig. 1: underneath 20), the lower surface being adapted for receiving heat from a heating source and the upper surface being adapted for transmitting heat (Col. 3: 12-20), a cover (Fig. 1:14) having an interior surface (Fig. 1: inside of 14) and an exterior surface (Fig. 1: outside of 14); a hollow cavity (Fig. 1: inside of 14) between the inner surface of the cover (Fig. 1: 14) and the upper grilling surface (Fig. 1: 25), such that when the cover is substantially closed, objects on the grilling surface do not contact the inner surface of the cover (Fig. 9; Col. 4: 23-37). Hopponen does not teach a motor coupled to the cover, the motor adjusting the opening between the cover and the grill. Hoeberigs teaches a grilling apparatus having a motor (Fig. 1: 19) coupled to a cover (Fig. 1: 6). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by Hopponen to attach a motor to the cover as taught by Hoeberigs. The advantage of this would be the ability to mechanically open the lid.

Claim 7: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 7, Hopponen teaches the apparatus is removable from the cover (Fig. 1:14), wherein removal of the apparatus does not prevent use of the grill (.

Claim 9: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 9, Hoeberigs teaches the motor stops movement of the cover at a point within a

full range of cover movement (Fig. 3a shows the cover closed, and 3b shows the lid open).

Claim 36: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 36, Hopponen teach the cover (Fig. 9:16) is cupped over the grilling surface (Fig. 9: 25).

8. Claims 3-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopponen and Hoeberigs as applied to claim 1 above, and further in view of limura et al (U.S. 5,779,032).

Claim 3: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 3, they do not teach a remote control. limura et al teach an apparatus having a remote control (Fig. 1: 3) for transmitting signals to a motor (Fig. 3: M). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by Hopponen and Hoeberigs to use a remote control to transmit signals to the motor as taught by limura et al. The advantage of this would be user protection from flare-ups due to the ability to control the cover from a remote location.

Claim 4: Hopponen, Hoeberigs and limura et al teach the limitations of claim 3. Referring to claim 4, limura et al teach the remote control transmits start and stop signals to the motor (Col. 3: 65-4:36).

Claim 5: Hopponen, Hoeberigs and limura et al teach the limitations of claim 4.

Referring to claim 5, limura et al teach the motor only operates during transmission of control signals to the motor (Col. 4: 36-45).

Claim 8: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 8, they do not teach the motor being battery operated. limura et al teach a battery-powered motor (Col. 1:20-21). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by Hopponen and Hoeberigs to use a battery powered motor as taught by limura et al. The advantage of this would be the cordless operation of the motor.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopponen, Hoeberigs and limura as applied to claim 4 above, in view of Whitaker et al (U.S. Patent 5,450,841).

Claim 6: Hopponen, Hoeberigs and limura et al teach the limitations of claim 4. Referring to claim 6, they do not teach a remote control transmitting signals to control flow of a combustible fuel. Whitaker et al teach a remote control transmitting signals to control flow of a combustible fuel (e.g. Fig. 1:35; Col. 3:20-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Hopponen, Hoeberigs and limura et al to make the remote transmit signals to control flow of a combustible fuel as taught by Whitaker et al. The advantage of this would be a user being able to control a flame from a distance and a reduced risk of being burned.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopponen and Hoeberigs as applied to claim 1 above, and further in view of Basek et al (U.S. 5,058,493).

Claim 10: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 10, they do not teach the lower grilling surface is heated by charcoal. Basek et al teach a charcoal briquette fuelled grill (Col. 3: 3-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Hopponen and Hoeberigs to use charcoal as taught by Basek et al. The advantage of this would be more flavorful food due to the smokiness of the coals.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopponen and Hoeberigs as applied to claim 1 above, and further in view of Rossi (U.S. 5,655,438).

Claim 11: Hopponen and Hoeberigs teach the limitations of claim 1. Referring to claim 11, they do not teach the lower grilling surface is heated by a combustible gas. Rossi teaches gas fuelled grill (Col. 1: 20-25; Fig. 3a). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Hopponen and Hoeberigs to use gas as taught by Rossi. The advantage of this would be even and efficient heating of the grill, due a consistent flow of gas.

12. Claims 13-15, 19, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeberigs as applied to claims 12 and 21 above, and further in view of Iimura et al (U.S. 5,779,032).

Claims 13 and 22: Hoeberigs teaches the limitations of claims 12 and 21. Referring to claims 13 and 22, Hoeberigs does not teach a remote control. Iimura et al teach an apparatus having a remote control (Fig. 1: 3) for transmitting signals to a motor (Fig. 3: M). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by Hoeberigs to use a remote control to transmit signals to the motor as taught by Iimura et al. The advantage of this would be user protection from flare-ups due to the ability to control the cover from a remote location.

Claims 14: Hoeberigs and Iimura et al teach the limitations of claim 13. Referring to claim 4, Iimura et al teach the remote control transmits start and stop signals to the motor (Col. 3: 65-4:36).

Claim 15: Hoeberigs and Iimura et al teach the limitations of claim 13. Referring to claim 5, Iimura et al teach the motor only operates during transmission of control signals to the motor (Col. 4: 36-45).

Claim 19: Hoeberigs teaches the limitations of claim 12. Referring to claim 19, Hoeberigs does not teach a battery powered motor. Iimura et al teach a battery-powered motor (Col. 1:20-21). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by

Hoeberigs to use a battery powered motor as taught by limura et al. The advantage of this would be the cordless operation of the motor.

Claim 23: limura et al teach a method of controlling an opening of a hollow chamber between a cover and a surface comprising: causing a motor (Fig. 3: M) to operate upon receiving a first signal; the motor (Fig. 3: M) coupled to the cover (Fig. 1:2a) such that operation of the motor (Fig. 3: M) causes an adjustment in the placement of the cover (Fig. 1:2a) over the surface (Fig. 2: 2e); and causing the motor (Fig. 3: M) to stop operating upon receiving a second signal (Col. 3:55-4:36). limura et al do not teach the surface being a grilling surface. Hoeberigs teach a grilling surface (Fig. 3a: 4). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to use the motor controlling method of limura et al in a grill taught by Hoeberigs. The advantage of this would be user protection from flare-ups due to the ability to control the cover from a remote location.

Claim 24: Hoeberigs and limura et al teach the limitations of claim 23. Referring to claim 24, limura et al teach activating a first control signal generates a first signal (Col. 3: 55-64).

Claim 25: Hoeberigs and limura et al teach the limitations of claim 24. Referring to claim 24, limura et al teach releasing the first control signal generates a second signal (Col. 3: 55-64).

Claim 26: Hoeberigs and limura et al teach the limitations of claim 24. Referring to claim 25, limura et al teach activating a second control signal generates a second signal (Col. 3: 55-64, repeated pressing of the controller).

13. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeberigs and limura et al as applied to claim 13 above, in view of Whitaker et al (U.S. Patent 5,450,841).

Claim 16: Hoeberigs and limura et al teach the limitations of claim 13. Referring to claim 16, they do not teach a remote control transmitting signals to control flow of a combustible fuel. Whitaker et al teach a remote control transmitting signals to control flow of a combustible fuel (e.g. Fig. 1:35; Col. 3:20-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Hoeberigs and limura et al to make the remote transmit signals to control flow of a combustible fuel as taught by Whitaker et al. The advantage of this would be a user being able to control a flame from a distance and a reduced risk of being burned.

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeberigs and limura et al as applied to claim 23 above, and further in view of Rossi (U.S. 5,655,438).

Claim 37: Hoeberigs and limura et al teach the limitations of claim 23. Referring to claim 37, they do not teach the placement of the cover controls an amount of smoke generated from the combustion of a wood product. Rossi teaches the placement of the cover controls an amount of smoke generated from the combustion of a wood product (Col. 2: 34-41). It would have been obvious to one having ordinary skill in the art at the

time that the invention was made to modify the apparatus taught by Hoeberigs and Iimura et al to use wood as taught by Rossi. The advantage of this would be well-flavored food.

Response to Arguments

15. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Toyokura (U.S. 5,970,209), Studer (6,076,451), and Rone (U.S. 5,410,950), Hagan (U.S. 5,996,572), Danen (U.S. 5,801,357), Studer (U.S. 5,611,264), and Sanchez (U.S. 4,852,476).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

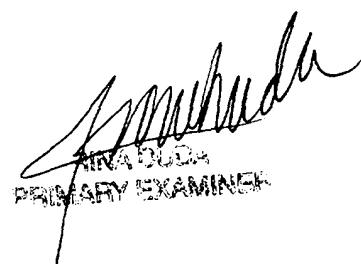
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (703) 308-1763 and is (571) 272-2069 after February 2, 2004. The examiner can normally be reached on Mon.- Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Renata McCloud
Examiner
Art Unit 2837

RDM



Renata McCloud
PRIMARY EXAMINER